1

2

3

4

5

6

7

8   UNITED STATES DISTRICT COURT

9   FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11   AKIVA AVIKAIDA ISRAEL,   No. 2:22-cv-0729-KJM-EFB (PC)

12   Plaintiff,

13   v.   ORDER

14   C. McCLELLAND, et al.,

15   Defendants.

16

17   Plaintiff, a state prisoner proceeding pro se, filed this civil rights action seeking relief

18   under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge as provided

19   by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

20   On November 7, 2024, the magistrate judge filed findings and recommendations, which

21   were served on all parties and which contained notice to notice to all parties that any objections to

22   the findings and recommendations were to be filed within fourteen days. Plaintiff has filed

23   objections to the findings and recommendations. ECF No. 33. In accordance with the provisions

24   of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this court has conducted a de novo review of

25   this case.

26   The court adopts the findings and recommendations in part. The Magistrate Judge

27   correctly recommends denying the motion for a temporary restraining order based on plaintiff's

28   failure to show a likelihood of success on the merits—or to raise serious questions about her

                                                1

1   success on the merits—of her constitutional claims. *See Winter v. Nat. Res. Def. Council, Inc.*,

2   555 U.S. 7, 20 (2008); *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011);

3   *see also* Screening Order, ECF No. 9 (construing claims). Nor has plaintiff demonstrated that

4   irreparable harm is likely absent preliminary injunctive relief, rather than, for example, a remedy

5   under the Federal Rules of Civil Procedure governing discovery in civil actions.

6   Accordingly, IT IS HEREBY ORDERED that:

7   1. The findings and recommendations (ECF No. 32) are adopted in part as described

8   above; and

9   2. Plaintiff's May 13, 2024 motion for a temporary restraining order is DENIED.

10   DATED: January 21, 2025.

UNITED STATES DISTRICT JUDGE

2